Conference on Disarmament

4 September 2018

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Subsidiary Body 5

Report

I. Mandate and scope of the Subsidiary Body 5

1. At the 1442nd plenary meeting on 16 February 2018 the Conference on Disarmament adopted the decision CD/2119 to establish five subsidiary bodies with a mandate to pursue the following areas and any other areas agreed by the subsidiary bodies, in accordance with the rules of procedure:

(a) To reach an understanding on the areas of commonalities in the Conference on Disarmament by taking into consideration all relevant views and proposals past, present and future;

(b) Deepening technical discussions and broadening areas of agreement, including through the participation, in accordance with the rules of procedure, of relevant experts;

(c) Consider effective measures, including legal instruments for negotiations.

2. The Conference decided that Subsidiary Body 5 will consider the following issues:

- New types of weapons of mass destruction and new systems of such weapons; radiological weapons;
- Comprehensive programme of disarmament;
- Transparency in armament; and
- Emerging and other issues relevant to the substantive work of the Conference could also be considered, in accordance with decision CD/2119.

II. Organization of work

3. At the 1455th plenary meeting of the Conference, on 27 March 2018, the Conference on Disarmament by decision CD/2126 approved the schedule of meetings of the Subsidiary body 5.

4. In accordance with the decision CD/2126 the Subsidiary body 5 held 7 meetings.

5. On May 17 and 18, 2018, the Member States were provided with an opportunity to have general exchange of views on the items under consideration.

6. On June 19 – 21, 2018, thematic in-depth discussions were held with the participation of invited experts.

7. On August 23, 2018, general debate on the outcomes of the work of the Subsidiary body 5 was held.

8. The following experts took part in the thematic in-depth discussions:

- on science and technology developments that can lead to new types of WMD or consequences comparable to the use of WMD – Ambassador Sergey Batsanov (Pugwash Conferences), Dr. Pavel Podvig (UNIDIR), Dr. Filippa Lentzos (King's College, London);
- on weaponization of artificial intelligence and cyber security – Ambassador Amandeep Singh Gill (Chair of the GGE on LAWS, CCW), Ms. Kerstin Vignard (UNIDIR), Dr. Jean-Marc Rickli (GCSP);
- on risk of obtaining WMDs by non-state groups – Dr. Jean Pascal Zanders (The Trench);
- on promoting comprehensive disarmament and transparency (including strengthening confidence-building measures) – Ms. Silvia Mercogliano (UNODA, Geneva Branch), Mr. Mark Finaud (GCSP), Dr. Mohammad Hassan Daryaei (CTBTO Preparatory Commission).

III. Outcomes of discussions

A. Developments in science and technology

9. Some delegations stated that science and technology developments at the current moment cannot lead to emerging of new types of WMDs. However, future prospective of development of new weapons with characteristics, comparable to nuclear or chemical weapons, was outlined by some delegations during the discussions.

10. Some delegations suggested that there should be better oversight and regulations on scientific research, and called for a code of conduct for scientists. In this context some delegations called for evaluations of developments in science and technology, which have an impact on international security.

11. Some other delegations suggested that the CD could examine ways of taking concrete action to monitor the relevant developments in science and technologies in light of the UN GA Resolution A/RES/72/28 "Role of science and technology in the context of international security and disarmament".

12. The following ideas were outlined by some delegations as well:

- on establishment of a review board to assess the impact of science and technology,
- on development and adoption of international binding agreements to ban the creation of new types of weapons of mass destruction through new scientific discoveries.

B. ICT and cyber security

13. On ICT and Cyber Security issues some delegations noted that significant progress had already been made on these issues in the context of the Group of Government Experts (GGE) on Information and Communication Technology in the Context of International Security, citing reports from 2010, 2013 and 2015, endorsed by the United Nations General Assembly.

14. Despite the lack of consensus in the previous GGE, established by General Assembly resolution 70/237, delegations noted this did not diminish the importance of the 2010, 2013, and 2015 GGE reports and encouraged the continued implementation of the recommendations contained in those reports.

15. Some Member States noted that the 2015 GGE in its consensus report affirmed (A/70/174) the applicability of international law, including the United Nations Charter, to the States' activities in cyber space. Other delegations noted that existing law, although applicable, is not sufficient, therefore a multilateral response is needed to develop new international law.

16. Some Member States expressed a desire to establish a new round of the GGE with a mandate to continue the work of that process, build upon the previous three GGE reports, and encourage the existing reports' implementation by all Member States.

17. The Conference was also reminded of an initiative to convene a small group under the auspices of the UNGA First Committee to review implementation of the recommendations contained in the 2010, 2013, and 2015 GGE reports and develop ideas to support further implementation of the recommendations and present a consensus report to the 75th General Assembly in 2020, based on input obtained in regular, inter-sessional consultations with the wider membership and other interested stakeholders.

18. Some delegations noted that the conditions for negotiating relevant international norms are emerging and called for the development of a legally binding framework to be negotiated within the framework of the United Nations.

19. Some delegations added that despite its unique characteristics, international security in cyber space is essentially not different from traditional arms control and the CD is the appropriate platform for discussing the issue.

20. Other delegations noted that they do not support negotiations of an arms control regime for cyber space, adding that the disarmament paradigm is not appropriate for a "dual use" environment such as cyber space.

21. A view was expressed that efforts in other fora shouldn't be affected by discussions on cyber in the CD. Some delegations did not believe there is currently any need to consolidate discussions in other fora under a single platform or look to include these issues as a new agenda item in the CD.

22. Some delegations added that it is the legitimate right of any State to research and develop offensive cyber capabilities for use in accordance with international law.

23. In response to arguments in favor of the legitimate right of States to develop offensive cyber capabilities, it was mentioned, that there is no definition to what constitutes a cyber weapon, and that international law applies to States behavior in the ICT environment, particularly in relation to the threat and use of force, while noting the lack of consensus on how to apply the right to self-defense according to Article 51 of the UN Charter in response to what some States may describe as cyber-attack.

24. ICT and cyber security issues were evaluated by some delegations as cross-cutting and affecting, directly or indirectly, many aspects of disarmament and international security, including nuclear deterrence, space security, transparency and verification. Concerns about risks, that might be posed by interlinkage between ICTs and WMDs were expressed as well.

C. Weaponization of Artificial Intelligence (AI)

25. While discussing weaponization of artificial intelligence a number of delegations noted that the weaponization of AI, including the development of LAWS reduced the role of humans with regard to decision making on the use of lethal force in warfare, thereby lowering the threshold for the use of force. Some delegations called for a pre-emptive ban on LAWS as a protocol under the Convention of Certain Conventional Weapons (CCW) and a moratorium on the development of LAWS pending the negotiation of such a protocol.

26. Other delegations called a ban on LAWS premature as AI could contribute to reduce civilian casualties and noted that the private sector is making great strides in this field. It was added that the time is not yet ripe for the negotiation of a political declaration or legally binding instrument.

27. Some Member States noted risks of non-state actors obtaining or weaponizing AI and called for the development of international norms. It was underlined that existing law is applicable, while the challenges in applying existing law to new phenomena, which could require the development of new legal norms, were noted.

28. Some delegations were of the view that the CCW is the most appropriate forum to address the issue of LAWS and warned against duplication in the CD. They noted the ongoing work in the Group of Governmental Experts on Lethal Autonomous Weapons Systems (GGE on LAWS) under the CCW. New weapons systems are by definition evolving, and pertain to areas of knowledge on which the expertise must be deepened. Necessity for maturation and therefore in-depth informal discussions was outlined as well.

29. Some delegations expressed the view that LAWS and AI issues could also be discussed in the CD without duplication.

30. Some delegations stated that issues of weaponization of artificial intelligence were found cross-cutting and affecting, directly or indirectly, many aspects of disarmament and international security, including nuclear deterrence and space security.

D. Risks of obtaining Weapons of Mass Destruction (WMD) by non-state actors

31. While there were concerns expressed with regard to other actors that may have potential malicious application of dual-use technologies, the main focus of discussions was on WMD-terrorism.

32. Some delegations expressed their support for the proposal to draft an International Convention for the Suppression of Acts of Chemical and Biological Terrorism (ICCBT). It was argued by them that WMD-terrorism has become a tragic reality and added that existing mechanisms such as Security Council Resolution 1540, the Chemical Weapons Convention (CWC) and Biological Weapons Convention (BWC) are not sufficient to counter the threat stemming from non-state actors.

33. Other delegations reaffirmed their reservations on or opposition to the proposed ICCBT and argued that a new convention is unnecessary and would duplicate existing efforts ongoing under such agreements as the CWC, BWC, and Security Council resolution 1540 (2004) to address the non-state actor threat. Any efforts on this matter need to take into account and to preserve the authority and credibility of existing instruments.

34. Some delegations, while not commenting on the ICCBT, noted the risks stemming from WMD-terrorism and underlined the need to secure sensitive materials.

E. General and complete disarmament, transparency

35. Support to the general and complete disarmament under effective international control was expressed at the meetings.

36. It was argued by some, that transparency and confidence building measures are no substitute for legally-binding instruments. Some delegations argued that nuclear weapon States should attach high importance to implementation of transparency measures on their nuclear weapons arsenals in light of the priority to achieve and maintain a nuclear weapon free world.

37. There were calls by some delegations for a new non-discriminatory and equitable export control regime open to all States, which in their views is an appropriate way of dealing with what they consider the lowered threshold for Research and Development of technology whereby States and entities obtain the relevant capacities to develop and maintain sensitive technologies and materials.

IV. Way forward

38. The discussions revealed very different approaches of Member States on how to address these issues, as well as on possibilities to discuss these issues within the CD and on the possible role of the Conference.

39. Therefore, notwithstanding, that none of the issues under consideration gained necessary level of maturity to start negotiations or were even supported as negotiations, the conditions for more in-depth discussions are emerging.

40. This resulted in a view, that the issues, related to mandate and scope of the Subsidiary Body 5 could be addressed further.